

David N. Kuhn (SBN 73389)
dnkuhn@pacbell.net
LAW OFFICES OF DAVID N. KUHN
144 Hagar Avenue
Piedmont, California 94611
Telephone: (510) 653-4983

Attorney for Plaintiff
GREGORY BENDER

Denise M. De Mory (SBN 168076)
demoryd@howrey.com
HOWREY LLP
525 Market Street, Suite 3600
San Francisco, California 94105
Telephone: (415) 848-4900
Facsimile: (415) 848-4999

Attorneys for Defendants
NXP SEMICONDUCTORS USA, INC.

Andrew P. Valentine (SBN 162094)
andrew.valentine@dlapiper.com
Marc C. Belloli (SBN 244290)
marc.belloli@dlapiper.com
DLA PIPER USA LLP
2000 University Avenue
East Palo Alto, California 94303
Telephone: (650) 833-2254
Facsimile: (650) 833-2001

Attorneys for Defendant
SILICON LABORATORIES, INC.

Daniel R. Foster (SBN 179753)
dfoster@mwe.com
MCDERMOTT WILL & EMERY
18191 Von Karman Avenue, Suite 500
Irvine, California 92612-7108
Telephone: (949) 851-9333
Facsimile: (949) 851-9348

Attorneys for Defendant
INFINEON TECHNOLOGIES
AMERICA CORP.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

GREGORY BENDER,

Plaintiff,

vs.

INFINEON TECHNOLOGIES NORTH
AMERICA CORP., a Delaware corporation, et
al.,

Defendants.

AND RELATED COUNTERCLAIMS.

Case No. 5:09-cv-2112 JW

**JOINT STIPULATION AND [PROPOSED]
ORDER RE CONTINUING INITIAL CASE
MANAGEMENT CONFERENCE TO
JANUARY 11, 2010 AND EXTENDING
TIME TO ANSWER OR OTHERWISE
RESPOND TO THE COMPLAINT**

Judge: Hon. James Ware

Date: November 9, 2009

Time: 9:00 a.m.

Place: Courtroom 8, 4th Floor

Complaint Filed: May 14, 2009

Pursuant to Civil L.R. 6-2 and 7-12, Plaintiff Gregory Bender ("Plaintiff") and defendants
Infineon Technologies North America Corp., Silicon Laboratories Inc., and NXP Semiconductors
USA, Inc. (collectively "Defendants") hereby stipulate and request an Order to change the date set for

1 the Court's Initial Case Management Conference in this action from November 9, 2009 (Dkt. No. 8) to
 2 January 11, 2010 or as soon thereafter as this matter can be heard.

3 Good cause exists for this request. The responsive pleadings for Silicon Laboratories and
 4 Infineon are not yet due, and the parties have reached an agreement to delay responsive pleadings,
 5 discovery, and disclosure obligations pending the outcome of dispositive and discovery motions in
 6 other pending related cases. In particular, there are several related cases pending on the same patent in
 7 which the defendants in those cases have challenged the complaint and/or Plaintiff's Patent Local Rule
 8 3-1 Disclosure of Asserted Claims and Infringement Contentions. Several rulings have recently been
 9 issued in the related cases in particular relating to the sufficiency of Plaintiff's allegations in these
 10 cases. In particular, in response to a Motion to Dismiss in *Gregory Bender v. Broadcom Corp.*, Case
 11 No. 3:09-cv-1147-MPH, Judge Patel delayed the responsive pleading deadline until infringement
 12 contentions were served. In *Gregory Bender v. Intersil Corporation*, Case No. 3:09-cv-1155-CW (BZ),
 13 Judge Zimmerman issued an order staying discovery and the patent local rule requirements pending the
 14 receipt of adequate infringement contentions. (See Exhibit 1). In *Gregory Bender v. Freescale*
 15 *Semiconductor, Inc.*, Judge James stayed discovery pending consideration of the sufficiency of the
 16 infringement contentions. (See Exhibit 2). In view of these rulings, the parties agree and stipulate as
 17 follows:

18 1. The Case Management Conference shall be delayed until January 11, 2010 or as soon
 19 thereafter as this matter can be heard, and the Rule 26 Conference and disclosures shall occur in
 20 accordance with the new initial Case Management Conference date;

21 2. Defendants shall answer, plead or otherwise respond to the Complaint no later than 14
 22 days after adequate infringement contentions are served; and

23 3. Defendants will have no discovery requirements until Plaintiff serves adequate infringement
 24 contentions.

25 //

26 //

27 //

28 //

4. The parties shall meet and confer and submit a proposed scheduling order in accordance with this order in advance of the new Case Management Conference.

IT IS SO AGREED.

Dated: November 2, 2009

LAW OFFICES OF DAVID N. KUHN

By: /s/ David N. Kuhn
David N. Kuhn
Attorneys for Plaintiff
GREGORY BENDER

Dated: November 2, 2009

HOWREY LLP

By: /s/ Denise M. De Mory
Denise M. De Mory
Attorneys for Defendant
NXP SEMICONDUCTORS USA, INC.

Dated: November 2, 2009

DLA PIPER US LLP

By: /s/ Marc C. Belloli
Marc C. Belloli
Attorneys for Defendant
SILICON LABORATORIES, INC.

Dated: November 2, 2009

McDERMOTT WILL & EMERY

By: /s/ Daniel R. Foster
Daniel R. Foster
Attorneys for Defendant
INFINEON TECHNOLOGIES NORTH
AMERICA CORP

*** ORDER ***

The Court finds good cause to continue the Case Management Conference currently set for November 9, 2009. However, because the parties failed to provide concrete deadlines for anticipated Motions to Dismiss as with the other cases, the Court finds that only a brief continuance is warranted at this time. Accordingly, the parties shall appear on **December 14, 2009 at 10 a.m.** for a Case Management Conference. On or before **December 4, 2009**, the parties shall file a Joint Case Management Statement. The Statement shall include, among other things, the parties' proposed schedule for briefing as to the anticipated Motions to Dismiss.

Dated: November 3, 2009

James Ware
JAMES WARE
United States District Judge